# Flygtningenævnets baggrundsmateriale

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31 March 2022

#### COD200963.FE

Democratic Republic of the Congo: The political situation, including ties between the current and previous governments; ties between state institutions and the former government (2020–March 2022)

Research Directorate, Immigration and Refugee Board of Canada

#### 1. Political Situation

#### 1.1 2018 Elections

According to sources, Félix Tshisekedi, leader of the Union for Democracy and Social Progress (Union pour la démocratie et le progrès social, UDPS) political party, was declared the winner of the 2018 presidential election in January 2019 (US 30 Mar. 2021, 1, 26; Freedom House 3 Mar. 2021, Sec. A1, B1) by the Independent National Electoral Commission (Commission électorale nationale indépendante, CENI) (US 30 Mar. 2021, 1, 26). Sources state that the UDPS is also a member of the electoral coalition Course for Change (Cap pour le changement, CACH), in partnership with the Union for the Congolese Nation (Union pour la nation congolaise, UNC) (ISS 1 Dec. 2020; Dépêche.cd 2 Dec. 2018) led by Vital Kamerhe (ISS 1 Dec. 2020). According to sources, the election results were disputed by the National Episcopal Conference of the Congo (Conférence épiscopale nationale du Congo, CENCO), which had observed the election (US 30 Mar. 2021, 1;

International Crisis Group 19 Jan. 2019, 1) with "some" 40,000 observers; according to "sources close to the church," Martin Fayulu was the winner (International Crisis Group 19 Jan. 2019, 1). An analysis by the *Financial Times* (*FT*), an international Englishlanguage newspaper, of election data it obtained representing 86 percent of votes across the country indicated that Fayulu had received 59.4 percent of the vote, while Tshisekedi obtained 19 percent (*FT* 15 Jan. 2019).

According to sources, Tshisekedi is thought to have won the presidency through a "backroom deal" (Freedom House 3 Mar. 2021, Sec. A1) or "manipulation" (International Crisis Group 19 Jan. 2019, 2) intended to preserve the political influence of outgoing president Joseph Kabila (Freedom House 3 Mar. 2021, Sec. A1; International Crisis Group 19 Jan. 2019, 2). In an interview with the Research Directorate, a professor at the University of Mons in Belgium whose research focuses on power, access to natural resources and land grabs in the African Great Lakes region, including the Democratic Republic of the Congo (DRC), noted that the new president is seen to be [translation] "managed" by Kabila as a result of the "deal" between them, which allows Tshisekedi to assume power while to some extent protecting Kabila (Professor 28 Feb. 2022). The same source stated that between 2019 and early 2020 there was [translation] "no change" in the political landscape, despite the election (Professor 28 Feb. 2022).

According to sources, the Common Front for Change (Front commun pour le Congo. FCC), a coalition led by former president Joseph Kabila [head of the coalition's main political party, the People's Party for Reconstruction and Democracy (Parti du peuple pour la reconstruction et la démocratie, PPRD) (Jeune Afrique 22 Oct. 2019)], won a majority in the national parliament (DW 26 June 2020; International Crisis Group 19 Jan. 2019, 1–2) as well as in the provincial elections that were held alongside the presidential election (International Crisis Group 19 Jan. 2019, 1–2). Sources note that the National Assembly has 500 seats and the FCC won 335 (US 30 Mar. 2021, 26) or 341 (Freedom House 3 Mar. 2021, Sec. A2) while the UDPS won 32 (US 30 Mar. 2021, 26). With regard to the appointment of a new prime minister, sources indicate that Sylvestre Ilunga Ilukamba, an ally of Kabila, was appointed in May 2019 (Freedom House 3 Mar. 2021, Sec. A1; France 30 Apr. 2020, 5) by Félix Tshisekedi (France 30 Apr. 2020, 5). According to International Crisis Group, the government he formed comprised 67 members, with FCC members holding [International Crisis Group English version] "key" positions, including defence, justice and mining (International Crisis Group 5 May 2021). According to IWEB RDC, an online magazine, the next presidential election will be held in 2023 (IWEB RDC 1 Dec. 2021). For further information on the December 2018 elections, including the formation of the new government, see Response to Information Request COD106401 of February 2020.

#### 2. Post-Election Situation

# 2.1 Corruption

Sources state that Tshisekedi's term has been marked by corruption and the misappropriation of public funds, [translation] "like in the days of former head of state Joseph Kabila" (Mediacongo.net 22 Sept. 2021) or even that corruption and embezzlement is [translation] "increasing" under Tshisekedi (Le Congo libéré 7 Jan. 2022). According to Afrikarabia, an online news site dedicated to the DRC and run by journalist Christophe Rigaud (Afrikarabia n.d.), there is an [translation] "impression" that a "new corrupt elite has taken the place of the old one" (Afrikarabia 8 Jan. 2022). An international civil servant interviewed by Le Congo libéré, an online political news site in the DRC (Le Congo libéré n.d.), stated that corruption is [translation] "'higher'" but "'more diffused'" under Tshisekedi (Le Congo libéré 7 Jan. 2022).

Sources state that in March 2020 the president created [by decree (Freedom House 3 Mar. 2021, Sec. C2)] the Agency for the Prevention and Fight Against Corruption (Agence de prévention et de lutte contre la corruption, APLC) (US 30 Mar. 2021, 28; Freedom House 3 Mar. 2021, Sec. C2), which coordinates all government institutions responsible for fighting corruption and money laundering, conducts investigations "with the full authority of judicial police" and transfers public corruption cases to the appropriate authorities (US 30 Mar. 2021, 28). According to Freedom House, the creation of the APLC, with its "broad powers," was "controversial," and in December 2020 the head of the APLC, Ghislain Kikangalao, was arrested on suspicion of embezzling funds from a Nigerian bank (Freedom House 3 Mar. 2021, Sec. C2).

Sources note the following cases of corruption and misappropriation of public funds:

- \$15 million for the oil industry [translation] "disappeared" (Afrikarabia 8 Jan. 2022).
- The telephone tax, the Mobile Device Registry (Registre d'appareils mobiles, RAM), the revenue of which cannot be located by the parliamentary economic committee (Afrikarabia 8 Jan. 2022).
- The Court of Auditors (*Cour des comptes*) has questioned the management of \$50 million allocated by the International Monetary Fund (IMF) for the health response to the COVID-19 pandemic (Afrikarabia 8 Jan. 2022; *Jeune Afrique* 4 Jan. 2022).
- The [translation] "'100 days'" presidential programme was marred by embezzlement (Afrikarabia 8 Jan. 2022). In June 2020, Tshisekedi's chief of staff, Vital Kamerhe, was sentenced to 20 years in prison for a number of crimes, including the embezzlement of tens of millions of dollars in public funds earmarked for the 100 days programme (US 30 Mar. 2021, 28; Freedom House 3 Mar. 2021, Sec. C2).
- The UDPS democratic convention expelled Jean-Marc Kabund, president
  of the UDPS and vice-president of the National Assembly, from the party
  following accusations of fraud involving the sale of party membership
  cards, extortion and corruption related to appointments to government
  positions, as well as cases of violence (Actualite.cd 29 Jan. 2022; DW
  31 Jan. 2022) against party supporters (DW 31 Jan. 2022).

#### 2.2 Electoral Reforms

According to the report by the UN Organization Stabilization Mission in the Democratic Republic of the Congo (Mission de l'Organisation des Nations Unies pour la stabilisation en RDC, MONUSCO), a new bill [UN English version] "to reform" the CENI was introduced on 11 June 2021 (UN 21 June 2021, para. 5). Media sources indicate that the electoral reforms adopted include a new 15-member structure for the CENI comprising five representatives from civil society (DW 14 June 2021; RFI 8 July 2021) as well as five members from the majority and five members from the opposition (RFI 8 July 2021) or six members from the majority and four from the opposition (DW 14 June 2021).

According to the MONUSCO report, political opponents and civil society representatives have criticized what they see as the [UN English version] "overrepresentation of political parties at the expense of civil society organizations" (UN 21 June 2021, para. 5). *IWEB RDC* reports that there were [translation] "tensions" between CENCO and Tshisekedi brought on by the appointment of the CENI president and that the archbishop of Kinshasa expressed his disappointment and called on Congolese to [translation] "be prepared for battle"; the prelate's residence was later attacked by UDPS supporters (*IWEB RDC* 1 Dec. 2021). Human Rights Watch (HRW) also reports that UDPS supporters carried out attacks against Catholic churches and priests for calling for the appointment of a more independent CENI president (HRW 13 Jan. 2022).

# 2.3 State of Siege

Sources state that changes in political regime are felt by [translation] "few" citizens (Loffman 16 Nov. 2021) or do not reach Congolese in the eastern part of the country (Professor 28 Feb. 2022). According to the Professor, the regime change has not affected how the DRC's 26 decentralized provinces operate, in terms of securing them [translation] "so that justice and police can function" (Professor 28 Feb. 2022). He noted that the security situation in eastern DRC depends in part on its geographical context, with the presence of soldiers from neighbouring countries such as Uganda, Rwanda and Burundi and the [translation] "risk" of "wrongdoings" committed by foreign soldiers (Professor 28 Feb. 2022).

Sources report that in response to insecurity in the eastern part of the country, the government imposed military rule by declaring a state of siege in the provinces of North Kivu and Ituri [1] in May 2021 (HRW 7 May 2021; UN 21 June 2021, para. 6–7). According to HRW, military officers appointed to governor positions in North Kivu and Ituri were involved in abuses during past conflicts (HRW 7 May 2021). Sources report that Parliament extended the state of siege in North Kivu and Ituri for the 12th time in November 2021 (UN 1 Dec. 2021, para. 3; BBC 20 Nov. 2021). Sources indicate that the government announced the extension of the state of siege in Ituri and North Kivu on

14 January 2022 (Actualite.cd 15 Jan. 2022; International Crisis Group Jan. 2022) as part of a measure passed by parliament in September 2021 authorizing the government to [translation] "legislate in its stead" with respect to the state of siege until 14 March 2022 (Actualite.cd 15 Jan. 2022). According to International Crisis Group, one person died in the city of Beni [North Kivu] during violent demonstrations against the last extension of the state of siege (International Crisis Group Jan 2022).

According to a report by the Kivu Security Tracker, a group of security experts in Kivu (TV5Monde and AFP 31 Oct. 2021), cited in media sources, after five months the state of siege in North Kivu and Ituri had not produced any [translation] "discernable positive effect" (BBC 20 Nov. 2021; TV5Monde and AFP 31 Oct. 2021). According to a BBC article citing the same report, in September 2021 the number of murders in the region had increased by 19 percent, a rise attributable to [translation] "the failure of talks initiated by provincial military authorities" (BBC 20 Nov. 2021). Between September and October 2021, 93 percent of the 1,024 human rights violations confirmed by MONUSCO in the DRC occurred in the provinces affected by the conflict, specifically North Kivu, Ituri and South Kivu, and 32 percent of violations were committed by agents of the state (UN 1 Dec. 2021, para. 19–20).

International Crisis Group reports that in the midst of [International Crisis Group English version] "massacres and other violence" committed against the population by armed groups in the eastern part of the country, including "atrocities" carried out in North Kivu by Uganda's armed group, the Allied Democratic Forces, since April 2021 there have been popular demonstrations against "the ineffective presence of UN peacekeepers and the Congolese army" (International Crisis Group 5 May 2021).

#### 3. Political Alliances

According to the Professor, the Congolese political sphere is defined by a [translation] "web of alliances" rather than the regime in power (Professor 28 Feb. 2022). Similarly, International Crisis Group notes that the current government is made up of a [International Crisis Group English version] "plethora of decision-making entities" and characterized by "disparate interests, as well as individual and group-based rivalries among the parties involved" (International Crisis Group 5 May 2021). The same source further states that ties exist between armed groups and politicians, who have used them since the 1990s for political or financial gain (International Crisis Group 5 May 2021).

#### 3.1 Between the Former and Current Governments

According to sources, Tshisekedi and his political coalition, CACH, formed an alliance with their predecessor, the FCC coalition and its leader, Kabila, to govern the country after the presidential election (Freedom House 3 Mar. 2021, Sec. B1; ISS

2 Feb. 2021). The Institute for Security Studies (ISS), an African non-profit organization that provides analyses, training and assistance to governments and civil society (ISS n.d.), reports that the alliance "hasn't worked in the [new] president's favour," given that two thirds of cabinet positions were occupied by pro-Kabila members, "limiting Tshiskedi's ability to govern" (ISS 2 Feb. 2021).

The Professor stated that starting in mid-2020, because of the pressure put on Tshisekedi by Western governments, particularly the US, the IMF and the World Bank, there was a political will to [translation] "oust" the Kabila regime that was still embedded in the state apparatus and usher in the new Tshisekedi government (Professor 28 Feb. 2022). Sources report that the coalition government and alliance between CACH and the FCC was dissolved in December 2020 (Freedom House 3 Mar. 2021, Sec. B1; HRW 13 Jan. 2022). Other sources report that Prime Minister Sylvestre Ilunga, an ally of Kabila, had to resign in January 2021 after a no-confidence vote, representing a "political victor[y]" for Tshisekedi over Kabila (Reuters 29 Jan. 2021) or "another step" toward his goal of pushing out Kabila's camp and reshaping his parliamentary support (ISS 2 Feb. 2021). International Crisis Group adds that the presidents of the National Assembly and the Senate were also removed through parliamentary motions between December 2020 and January 2021 (International Crisis Group 5 May 2021). According to Politico SL, an English-language newspaper based in Sierra Leone, Tshisekedi managed to win over the majority of Kabila's allies in Parliament (Politico SL 26 Oct. 2021).

As for the insertion of the Tshisekedi government at the institutional level, the Professor noted that the president has succeeded in inserting his supporters into [translation] "all" institutions, including electoral and judicial ones (Professor 28 Feb. 2021). Other sources report that the president appointed three new judges to the Constitutional Court in 2020 (Freedom House 3 Mar. 2021, Sec. F1; International Crisis Group 5 May 2021), thereby securing [International Crisis Group English version] "the loyalty of this institution, which was once suspected of being in Kabila's service" (International Crisis Group 5 May 2021).

### 3.2 Between Kabila and State Institutions

According to sources, despite the change of the regime in power in 2019, Kabila has maintained his control over security forces (International Crisis Group 19 Jan. 2019, 2; DW 12 Apr. 2021) and the legislative and judicial systems (DW 12 Apr. 2021). In addition, sources state that the Constitutional Court is considered "pro-Kabila" (Freedom House 3 Mar. 2021, Sec. A3; International Crisis Group 19 Jan. 2019, 2). According to Freedom House, opposition political parties, as well as civil society actors, "frequently criticize" the lack of independence of CENI, which they say is pro-Kabila (Freedom House 3 Mar. 2021, Sec. A3). Sources report that in July 2020 CENI secretary general Ronsard Malonda was nominated as president of the electoral authority (DW 4 Aug. 2020; Freedom House

3 Mar. 2021, Sec. A3; US 5 Mar. 2021). The same sources add that Malonda is a Kabila ally and oversaw the 2018 provincial elections that were generally regarded as being "compromised" (Freedom House 3 Mar. 2021, Sec. A3) or that he was charged with fraud between 2006 and 2018 (DW 4 Aug. 2020). His nomination was subsequently rejected, according to Freedom House, in response to demonstrations and objections from various civil society groups (Freedom House 3 Mar. 2021, Sec. A3).

An article published by the Africa Center for Strategic Studies [2] states that, despite the measures taken by Tshisekedi to [translation] "reform" the security services, "Kabila's followers still have a strong presence in the police and intelligence service and the violations they are known for continue," and the situation within the judiciary is "similar" (US 5 Mar. 2021).

In one case reported by media sources, about which the government is not releasing further information, François Beya, Tshisekedi's special security advisor and part of the former Kabila regime, is being held at the National Intelligence Agency (Agence nationale de renseignements, ANR) offices in Kinshasa as of 5 February 2022 based on "serious evidence" of national security threats (*African Business* 17 Feb 2022; RFI 10 Feb. 2022) and "allegations" of a coup attempt (*African Business* 17 Feb. 2022). Agence France-Presse (AFP) reports that protests by UDPS supporters were held in Kinshasa the next day (AFP 6 Feb. 2022). An article by AFP and the news service Africanews states that Republican Guard troops tasked with protecting the president and state institutions patrolled the streets of Kinshasa the following week (Africanews and AFP 13 Feb. 2022).

The information in the following paragraph was provided by the Professor:

Despite this break between the old and new regimes, Kabila's influence in the country in terms of justice and corruption persists. The Congolese government is a [translation] "semi-autonomous space," marked by an absence of hierarchal "discipline." Because of this semi-autonomous structure, there has been no real change at the political level in terms of "practices" since Kabila's departure. Within the intelligence service, officers carry out orders, even commit crimes, at the request of political figures to whom they do not report. "Sometimes" crimes are committed in the president's name without his knowledge, because the perpetrators know that they are protected by a person in power. Certain cases, such as embezzlement, can be prosecuted under the current government, while others, even if they took place under the former government, cannot be prosecuted without a crackdown, depending on the specific case, the perpetrators involved and their alliances with the current political leaders. A pro-Tshisekedi judge could rule in favour of a pro-Kabila politician on a given matter for reasons that are not "necessarily" related to who controls the institution (Professor 28 Feb. 2022).

# 3.3 The Current Government's Alliances After the Dissolution of the Former Governing Coalition

# 3.3.1 Creation of the Sacred Union of the Nation (Union sacrée de la nation, Union sacrée [USN])

Sources state the Constitutional Court has ruled to allow parliamentarians to switch their political allegiances (International Crisis Group 5 May 2021) or leave their party (*Jeune Afrique* 19 Jan. 2021), without losing their seat in parliament, allowing Tshisekedi to form a new parliamentary alliance (International Crisis Group 5 May 2021; *Jeune Afrique* 19 Jan. 2021).

Sources indicate that Tshisekedi has allied with two leaders from opposition political parties, Möise Katumbi and Jean-Pierre Bemba [leaders of Together for the Republic (Ensemble pour le République) and the Movement for the Liberation of the Congo (Mouvement pour la libération du Congo, MLC), respectively (*Jeune Afrique* 14 Jan. 2021)], to form a new governing union called the Sacred Union (International Crisis Group 5 May 2021; ISS 2 Feb. 2021). According to International Crisis Group, the new Sacred Union majority coalition, led by the newly appointed prime minister Sama Lukonde [Jean-Michel Sama Lukonde], garnered the support of 410 of the 412 deputies present, with 80 percent of cabinet positions going to new incumbents (International Crisis Group 5 May 2021). According to sources, following the installation of the new majority coalition in April 2021, opposition figures were appointed to key positions (AFP 13 Apr. 2021; International Crisis Group 5 May 2021).

Nonetheless, sources state that the new union includes [International Crisis Group English version] "numerous" FCC deputies (International Crisis Group 5 May 2021) or is [translation] "largely" made up of the same deputies from the previous coalition (Professor 28 Feb. 2022). Similarly, ISS reports that the "overwhelming presence" of FCC members in the Sacred Union has concerned many political actors (ISS 2 Feb. 2021). The Professor noted that this means that the [translation] "logic" of Kabila's government, whereby non-supporters of the regime who raise "sensitive issues" are subjected to "repression," still dominates (Professor 28 Feb. 2022).

### 3.3.2 Creation of Other Political Groups

According to MONUSCO, the continued questioning of the CENI appointment process has led to the creation of a new coalition of political opposition members, including the Lamuka alliance [3] and the FCC, as well as the Catholic and Protestant churches, dubbed the [translation] "Patriotic Bloc," which has [UN English version] "the stated goal of advocating [for] credible, free, transparent, inclusive and peaceful elections in 2023" (UN 1 Dec. 2021, para. 5). Media sources report that the Patriotic Bloc organized

demonstrations in November 2021 in Kinshasa [as well as at CENI offices in other provinces and territories (Dépêche.cd 16 Nov. 2021)] demanding the depoliticization of CENI and opposing the [translation] "dictatorial" governance of Tshisekedi's administration (7sur7.cd [13 Nov. 2021]; Dépêche.cd 16 Nov. 2021).

According to sources, an organization called the Group of 13 (Groupe des 13, G13) is working to achieve consensus among political actors on electoral reforms and includes parliamentarians and civil society members (DW 4 Aug. 2020; *Jeune Afrique* 3 Nov. 2020). Media sources indicate that the CENI reforms adopted by the National Assembly continue to be controversial among the political opposition and civil society (DW 14 June 2021; RFI 8 July 2021), including the G13 (DW 14 June 2021). Speaking on behalf of the G13 in an interview with Deutsche Welle (DW), one of its members noted that the bill [translation] "'in no way addresses'" the concerns raised during the 2018 elections (DW 14 June 2021). According to sources, the main point of disagreement is around the [translation] "depoliticization" of CENI (RFI 8 July 2021) or the "'independence'" of its members "whose criteria for appointment have not been [further] clarified in this legislation'" (DW 14 June 2021).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

#### **Notes**

- [1] According to sources, the conflict in certain provinces in northern and eastern DRC, including in North Kivu and Ituri, continued in 2020, marked by fighting among armed groups and resulting in "significant" displacement of the civilian population (US 30 Mar. 2021, 11–12) or "hundreds of thousands of people" (Amnesty International 7 Apr. 2021, 387). According to the US Department of State's *Country Reports on Human Rights Practices for 2020*, "many" of these armed groups came from foreign countries or were "predominantly" made up of non-Congolese citizens (US 30 Mar. 2021, 12). Sources report that since 2021 joint military operations between Congolese and Ugandan forces have been carried out in the eastern part of the country against armed groups (HRW 13 Jan. 2022; International Crisis Group Jan. 2022).
- [2] The Africa Center for Strategic Studies is [US English version] "an academic institution within the U.S. Department of Defense established and funded by Congress" in 1999 that serves as a forum for research, academic programs and the exchange of ideas, with a view to advancing African security (US n.d.).

[3] Lamuka is a political opposition coalition led by Martin Fayulu and Adolphe Muzito (Actualite.cd 14 Sept. 2021; *The Africa Report* 24 Dec. 2021) that calls for the depoliticization of CENI (Actualite.cd 14 Sept. 2021).

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